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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
Against:

Case No. 2013-780

12 **SHERREE ANN RUSS**

STATEMENT OF ISSUES

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14 Applicant/Respondent.

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16 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

17 **PARTIES**

18 1. Complainant brings this Statement of Issues solely in her official capacity as the
19 Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs (the
20 "Board").

21 **Application History**

22 2. On or about April 2, 2012, the Board received an application for a Registered Nurse
23 License from Sherree Ann Russ ("Respondent"). Respondent certified under penalty of perjury
24 to the truthfulness of all statements, answers, and representations in the application.

25 **JURISDICTION**

26 3. Pursuant to Business and Professions Code ("Code") section 485, subdivision (b), on
27 or about August 3, 2012, Respondent's application was denied and she was notified of the right to
28 a hearing to appeal the denial.

4. On or about August 30, 2012, Respondent requested a hearing to appeal the denial of her application.

STATUTORY PROVISIONS

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

CAUSE FOR DENIAL OF APPLICATION

(Out-Of-State Discipline)

6. Respondent's application is subject to denial under Code section 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that effective July 21, 2010, pursuant to a *Consent Agreement and Order No. 1001079* (attached hereto as **Exhibit A** and incorporated herein by reference), in a disciplinary proceeding entitled *In the Matter of the Application for Registered Nurse Licensure of Sheree Ann Russ Applicant*, the Arizona State Board of Nursing assessed a \$250.00 civil penalty against Respondent prior to granting a registered nursing license. The basis of said discipline is that Respondent conducted herself in a manner harmful or dangerous to patient or public health, and exhibited a pattern of being under the influence of alcohol to the extent judgment may be impaired and nursing practice detrimentally affected. Specifically, on or about December 9, 2004, Respondent was arrested for driving under the influence of alcohol with a blood alcohol level of 0.08%. Further, on or about March 18, 2008, Respondent drove a vehicle under the influence of alcohol with a blood alcohol level of .16%, for which Respondent was convicted on May 9, 2008, by the City of Phoenix Municipal Court, in Phoenix, Arizona, of driving under the influence of alcohol (*State of Arizona v. Sherree A. Russ*, City of Phoenix Municipal Court [2008], complaint number 13540880).

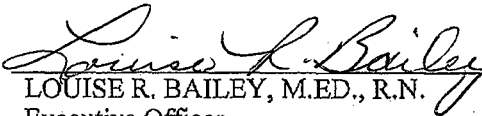
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Sherree Ann Russ for a Registered Nurse License, and
2. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 18, 2013



LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

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EXHIBIT A

Consent Agreement and Order No. 1001079, Eff. July 21, 2010
In the Matter of the Application for Registered Nurse Licensure of Sheree Ann Russ Applicant
Arizona State Board of Nursing

BEFORE THE ARIZONA STATE BOARD OF NURSING

IN THE MATTER OF THE APPLICATION
FOR REGISTERED
NURSE LICENSURE OF

SHEREE ANN RUSS
APPLICANT

ARIZONA DEPARTMENT NURSING
CONSENT AGREEMENT 001#6272 A
AND CN CIV PEN \$250.00
ORDER NO. #691210558
1001079 CHARGE4 \$250.00

CONSENT AGREEMENT

A complaint charging SHEREE ANN RUSS ("Applicant") with violation of the Nurse Practice Act has been received by the Arizona State Board of Nursing ("Board"). In the interest of a prompt and speedy settlement of the above-captioned matter, consistent with the public interest, statutory requirements and the responsibilities of the Board, and pursuant to A.R.S. § 41-1092.07(F)(5), the undersigned parties enter into this Consent Agreement as a final disposition of this matter.

Based on the evidence before it, the Board makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Applicant applied for registered nurse licensure by examination to the Board on or about January 6, 2010, and answered affirmatively on her application that she had criminal history involving a felony or undesignated offense. Applicant disclosed a 2008 misdemeanor DUI conviction in Phoenix Municipal Court. Based upon Applicant's disclosure, the Board conducted an investigation.
2. On or about April 21, 2010, Board staff received a written statement from Applicant who wrote that she answered "yes" to the felony conviction question on her application in error and that she has never been convicted of a felony.

3. On or about December 9, 2004, according to Phoenix Police report/citation number 13180416, Applicant was arrested for DUI after she was stopped for speeding. Applicant's BAC was .08%.

4. On or about March 18, 2008, according to Phoenix Police report number 2008-80466847, Applicant was arrested for DUI after she was stopped for speeding. Her BAC was .16%.

5. On or about May 9, 2008, in Phoenix Municipal Court, complaint number 13540880, Applicant was convicted, pursuant to a guilty plea, of misdemeanor DUI.

CONCLUSIONS OF LAW

Pursuant to A.R.S. §§ 32-1606, 32-1663 and 32-1664, the Board has subject matter and personal jurisdiction in this matter.

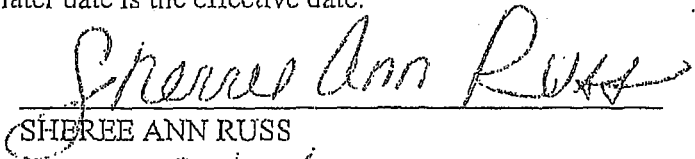
The conduct and circumstances described in the paragraphs above constitute sufficient cause pursuant to A.R.S. § 32-1663 (A) as defined in A.R.S. § 32-1601 (18) (d) (Any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public); and (j) (Violating a rule that is adopted by the Board pursuant to this chapter) (adopted effective October 2009), and A.A.C. R4-19-403 (17) (A pattern of using or being under the influence of alcohol, drugs, or a similar substance to the extent that judgment may be impaired and nursing practice detrimentally affected, or while on duty in any health care facility, school, institution, or other work location) (adopted effective February 2, 2009), to deny Applicant licensure as a registered nurse. However, in lieu of a formal hearing on these issues, Applicant agrees to the issuance of the following Order and irrevocably waives all rights to a hearing, rehearing, appeal, or judicial review relating to the Findings of Fact, Conclusions of Law, and Order.

Applicant understands that all investigative materials prepared or received by the Board concerning these violations and all notices and pleadings relating thereto may be retained in the Board's file concerning this matter.

Applicant understands the Findings of Fact, Conclusions of Law and Order are conclusive evidence of a prior violation of the Nurse Practice Act and may be used for purposes of determining sanctions in any future disciplinary matter.

Applicant understands the right to consult legal counsel prior to entering into this Consent Agreement, and such consultation has either been obtained or is waived.

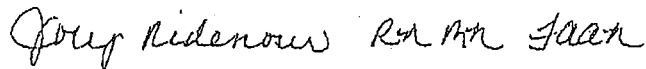
Applicant understands that this Consent Agreement is effective upon its acceptance by the Board and by Applicant as evidenced by the respective signatures thereto. Applicant's signature obtained via facsimile shall have the same effect as an original signature. Once signed by the Applicant, the agreement cannot be withdrawn without the Board's approval or by stipulation between the Applicant and the Board's designee. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Applicant. If the Consent Agreement is signed on different dates, the later date is the effective date.


SHERREE ANN RUSS

Dated: 8/3/10

ARIZONA STATE BOARD OF NURSING

SEAL


Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Dated: July 21, 2010

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the parties agree to the provisions and penalties imposed as follows:

A. Applicant's consent to the terms and conditions of the Order and waiver of public hearing are accepted.

B. Upon acceptance by the Board and the Applicant of this consent agreement as evidenced by their respective signatures on this consent agreement and prior to granting a registered nursing license, Applicant is assessed a civil penalty in the amount of \$250.00. Applicant shall pay the Civil Penalty, in full, via cash, cashier's check or money order before the registered nursing license is granted. No personal checks or business checks are accepted.

C. If Applicant fails to pay the Civil Penalty, in full, within 60 days of the effective date of the Consent Agreement and Order, the application for licensure is **denied** based on the facts presented in the investigative report.

D. This Order becomes effective upon the Board and Respondent's acceptance of the Consent Agreement. The effective date of this Order is the date the Consent Agreement is signed by the Board and by Respondent. If the Consent Agreement is signed on different dates, the later date is the effective date.

E. Applicant shall obey all federal, state and local laws, and all laws/rules governing the practice of nursing in this state. Offenses such as driving under the influence may subject

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Applicant to further disciplinary action, however, commission of minor civil moving traffic violations are excluded.

ARIZONA STATE BOARD OF NURSING

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Dated: July 21, 2010

JR/DP:eg

COPY mailed this 27th day of July, 2010, by First Class Mail to:

Sheree Ann Russ
1835 North 11th Street
Phoenix, Arizona 85006

By: Esther Garcia